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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/398,006	09/16/1999	YOICHI OKAMOTO	Q55806	9551

7590 02/18/2004

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WASHINGTON, DC 20037

EXAMINER

FISCHER, JUSTIN R

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 02/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/398,006

Applicant(s)

OKAMOTO ET AL. 

Examiner

Justin R Fischer

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1733

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1 and 3-7.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.

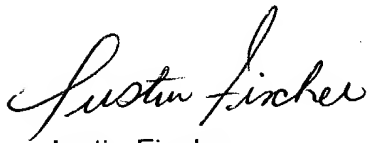
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Continuation of 2: Applicant's proposed amendment includes an independent claim (and a dependent claim) that was not previously considered. In particular, the proposed claims require a narrower range for the inclination angle of the reinforcing elements in the outermost layer that exclude values above 90 degrees- the previously drafted claims were directed to reinforcing elements having an inclination angle as high as 115 degrees. As such, the claims would require further search and consideration.

Continuation of 5: Regarding the axial extent of the outermost cord layer, applicant states the following: the cut resistance and the separation resistance is improved by the unique belt structure in which the outermost cord layer has a width equal to or greater than a width of the middle cord layer as shown in Figure 8. While applicant contends that none of the references hint at such a structure, it is clearly evident from Figures 3A and 3B of Farnsworth that such a construction is expressly depicted. Although Farnsworth fails to expressly attribute improved cut and separation resistance to this structure, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). It is further noted that the staggering of ply ends is common in the tire industry in order to eliminate the buildup of stresses at the ends of the respective plies (related to separation resistance identified by applicant). Also, the use of an outermost ply that covers the ends of the middle ply would have been obvious since the function of the outermost ply is to protect the underlying,


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working crown plies from piercings and additional protrusions, which is analogous to the cut resistance identified by the claimed invention (this structure is expressly suggested/depicted by Farnsworth as noted above). These positions have been previously set forth in the Final Rejection (Page 6). Lastly, the limitation regarding the axial extent of the outermost cord layer has been previously addressed in the rejection of claim 3.



Justin Fischer

February 10, 2004



JEFF H. AFTERGUT
PRIMARY EXAMINER
GROUP 1300